

Board of Commissioners
December 1, 2008 – 8:19 am

Meeting called to order by President Rininger. Commissioners Rininger, Logsdon, Gogel, and Board Attorney Lueken were present.

Claims

After a brief discussion, Logsdon made a motion to approve the claims. Gogel seconded. All in favor.

Minutes

11/03/2008 minutes; Rininger asked that the word information be changed to the word data in the discussion regarding the GIS topography layer. Logsdon made a motion to approve. Gogel seconded. All in favor.

11/18/2008 Executive session; Logsdon made a motion to approve. Gogel seconded. All in favor.

11/18/2008 minutes; Logsdon made a motion to approve. Gogel seconded. All in favor.

Property Maintenance Ordinance

The second reading was had on the proposed Property Maintenance Ordinance. Logsdon made a motion to approve the ordinance. Rininger seconded. The motion passed with a vote of 2 to 1 with Gogel opposing. The ordinance was passed as follows:

ORDINANCE NO. 2008-14
Adopted 12-1-2008

**THE SPENCER COUNTY
PROPERTY MAINTENANCE ORDINANCE**

WHEREAS, the Board of Commissioners of Spencer County, State of Indiana, desire to provide for the public health and safety of the citizens of Spencer County by reducing the trash, junk, weeds and storage of junk vehicles within Spencer County.

NOW, THEREFORE, be it Ordained and Enacted by the Board of Commissioners of Spencer County, State of Indiana, as follows:

TITLE: This Ordinance and all Ordinances supplemental or amendatory hereto shall be known as The Property Maintenance Ordinance and may be cited as such and will be referred to herein as “this Ordinance.”

PURPOSE: The purpose of this Ordinance is to provide minimum standards for the prevention and suppression of disease and health risks associated with the accumulation of trash, junk, weeds, and vehicles.

AUTHORITY: The following shall be authorized enforcement agents in the enforcement of this ordinance within the unincorporated areas of Spencer County, Indiana: Law Enforcement Officials serving in Spencer County,

Health Department, Plan Commission, Solid Waste Management District and their representatives/agents are hereby authorized to investigate violations and to perform all actions necessary for the enforcement and administration of this ordinance and will be referred to as "Enforcement Agents"

Section 1 **DEFINITIONS**

1.00 Definitions For the purpose of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

1.0 **"Abandoned Vehicle"** means the following:

- (a) Any vehicle that has remained on private property without the consent of the owner or person in control of that property for more than forty-eight (48) hours.
- (b) A vehicle that is mechanically inoperable, and left on private property continuously in a location visible from public property for more than twenty (20) days.

1.1 **"Accumulate"** as pertains to junk and trash means any one of the following: 1) Improperly collecting junk and trash in an inappropriate storage container; or 2) collecting junk and trash in an accumulation greater than three (3) cubic yards.

1.2 **"Compost"**- the product produced by the process of composting vegetative matter and other types of organic material.

1.3 **"Composting"**- the biological treatment process by which microorganisms decompose the organic components of vegetative matter and other types of organic material under controlled conditions to produce a usable product.

1.4 **"County"**- the County of Spencer, State of Indiana.

1.5 **"Hearing Authority"**- shall be the Spencer County Commissioners or any person(s) designated as such by the Commissioners under authority of I.C. 36-7-9-2

1.6 **"Highway or Road"**- shall mean that portion of the State or County public highway or road system so designated on the General Highway and Transportation Map as amended, which are kept by the Indiana Department of Transportation and the Spencer County Highway Department.

1.7 **"Junk"**- refers to combustible and non-combustible waste materials; the term shall include paper; rags; tin; metals; residue from burning; household goods including, but not limited to, mattress, furniture, major appliances, clothing and other household items not intended for exposure to rain and other inclement weather.

1.8 **"Junk Vehicle"** – vehicles that are inoperable or incapable of movement by their own locomotion or power, or vehicles without a valid current state registration and license plate.

1.9 **"Person"** means any person, firm, partnership, association, corporation, company or organization of any kind.

1.10 **"Residential Zone"** means the zone used for single family or multi-family dwellings per Spencer County Zoning Ordinance.

1.11 **"Second Violation"**- a violation that is committed by a person within two (2) calendar years of a previous violation.

1.12 **"Sheriff"** means the duly elected Sheriff of Spencer County or a duly appointed Deputy Sheriff of the Spencer County Sheriff's Department.

1.13 **"Standard Container"**- Sturdy, tied plastic bags; durable metal, plastic, or similarly constructed container designed for the storage of garbage. Food scraps and other household trash that attracts animals and/or rodents must be placed in a vermin-proof and waterproof container with a tight fitting lid.

1.14 **"Trash"**- the animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

1.15 **"Visible"** - shall mean capable of being seen by a person of normal visual activity using the State Highway, County Road or his/her own real property.

1.16 **"Weeds"**- refers to any growth of vegetation, other than trees, bushes, shrubs, ornamental plants, or agricultural plants cultivated in an orderly manner for the purpose of producing food and/or feed.

Section 2 **TRASH and JUNK**

2.00 **Trash and Junk.**

2.1 No person shall permit the accumulation of trash and/or junk -

- (a) In a Residential Zone(s) per the Spencer County Zoning Ordinance; or
- (b) Within 100 feet of any single-family residence; or
- (c) Where such material is visible from any public road or right-of-way.

2.2 It shall be a violation of this Ordinance for the owner, or anyone having a substantial property interest in real property, including open or vacant property, within Spencer County to deposit or allow to remain on that real property any trash or junk, as defined above, which items might provide food or harborage for insects, rodents, pests, or pose a fire safety hazard.

2.3 No person shall permit junk or trash to be situated on his or her property so that the material can be carried, by wind, to any highway, right-of-way, easement, or upon the property of any other person.

2.4 Nothing in this Ordinance shall be deemed to apply to County owned or operated recycling, or salvage operations, or any other operation that is in compliance with the Spencer County Zoning Ordinance.

2.5 Nothing in the Ordinance shall be deemed to apply to compost and

composting.

2.6 Nothing in the Ordinance shall be deemed to apply to the use of standard containers or dumpsters for the temporary containment of trash or junk awaiting disposal. Trash that attracts animals or rodents must be placed in a vermin-proof and waterproof container with a tight fitting lid. Such containers shall be constructed, handled, and placed in a way that will not promote a safety or health issue.

Section 3 **WEEDS**

3.00 **Weeds**

3.1 No person shall permit the growth of grass or weeds in excess of eighteen (18) inches in height:

- (a) In a Residential Zone(s) per the Spencer County Zoning Ordinance; or
- (b) Within 100 feet of any single-family residence.

3.2 Nothing in the Ordinance shall be deemed to apply to agricultural plants or crops, such as hay and pasture.

Section 4 **ABANDONED AND JUNK VEHICLES**

4.00 **Abandoned and Junk Vehicles.**

4.1 It shall be unlawful for any person to keep, park or store any junk or abandoned vehicle(s) or parts thereof, on public or private property, if such vehicle(s), or parts thereof, are not kept in a garage or other enclosure.

4.2 A vehicle shall not be considered an abandoned or junk vehicle if it is stored in a garage or other building or within a fenced area which blocks the vehicle from being visible.

4.3 A garage or other building does not include a tarp, plastic sheeting or any other similar material or impermanent means that are used to cover a motor vehicle. A garage or other building as contemplated in this section is given its ordinary meaning

4.4 Nothing contained in this Ordinance shall be construed to apply to farm machinery.

4.5 Nothing contained in this Ordinance shall be construed to apply to vehicle(s) located within areas that are properly zoned, as defined in the Spencer County Zoning Ordinance, in which vehicles or parts of vehicles are kept, stored or parked as an incident to conducting business.

4.6 Nothing contained in this Ordinance shall be construed to apply to vehicle(s) screened by natural objects, plantings, fences or other appropriate means so as not to be visible.

Section 5 **INVESTIGATION**

5.00 **Investigation.**

5.1 It shall be the duty of the Authorized Enforcement Agent(s) to evaluate a report or complaint of a violation of this ordinance for proper enforcement procedures.

5.2 Authorized Enforcement Agent(s) shall provide an "Inspection Report" to the Solid Waste Management District and, if feasible, to the property owner.

Section 6 **VIOLATIONS**

6:00 **Violations**

6.1 **Trash and Junk**

6.10 In cases of actions violating Section 2.00 of this Ordinance a "Notice of Violation" shall be issued by the Spencer County Solid Waste Management District requiring the violator to remove and properly dispose of the trash and/or junk from the premises within fifteen **(15)** days from the date of the notice.

6.2 **Weeds**

6.20 In cases of actions violating Section 3.00 of this Ordinance a "Notice of Violation" shall be issued by the Spencer County Solid Waste Management District requiring the violator to cut and/or remove the accumulation of weeds from the premises within seven **(7)** days from the date of the notice.

6.3 **Abandoned and Junk Vehicles**

6.30 In cases of actions violating Section 4.00 of this Ordinance a "Notice of Violation" shall be issued by the Spencer County Solid Waste Management District requiring the violator to remove the abandoned and/or junk vehicle(s) from the premises within fifteen **(15)** days from the date of the notice.

Section 7 **NOTICE OF VIOLATION**

7.00 **Notice of Violation**

7.1 Any person found to be in violation of any provision of this Ordinance shall receive a "Notice of Violation" and a letter requesting the violator contact the Solid Waste Management District within five **(5)** business days from the date of the "Notice of Violation".

7.2 If the recipient of the "Notice of Violation" does not correct the violation, a Second "Notice of Violation" shall be served either in person or by certified/registered mail.

7.3 The Solid Waste Management District (SWMD) shall be responsible for issuing the "Notice of Violation".

7.4 The "Notice of Violation" shall state:

- (a) The date and location of the violation.
- (b) The nature of the violation.
- (c) The time period for correcting the violation.
- (d) The fine and fines for subsequent violation(s).

- (e) The procedures if the violation is not corrected in the time specified on the "Notice of Violation".
- (f) The name, address and telephone number of the person to contact regarding the correction of the violation.
- (g) The date, time and location for the hearing before the Hearing Authority to present evidence and arguments as to why the "Notice of Violation" was issued in error.

Section 8 HEARING

8.00 Hearing Authority

- 8.1** Per the "Notice of Violation", if the recipient of the "Notice of Violation" believes he or she has received the notice in error, the recipient is entitled to appear at the Hearing before the Property Maintenance Hearing Authority to present evidence and arguments as to why the "Notice of Violation" was issued in error.
- 8.2** The Hearing Authority can affirm, modify or rescind the "Notice of Violation".
- 8.3** If the recipient of the "Notice of Violation" does not appear at the Hearing or does not comply with the "Notice of Violation" the Spencer County Commissioners may order that the violation be corrected.
- 8.4** If the "Notice of Violation" is affirmed or modified by the Hearing Authority, the recipient has the right, pursuant to I.C.36-7-9-8 , to appeal the Hearing Authority's decision by filing a verified complaint, including the findings of fact and the action taken by the Hearing Authority with the Spencer County Circuit Court within 10 days after the date when the action was taken.
- 8.5** The Hearing Authority will issue a report, with all supporting evidence, to the Spencer County Commissioners.

Section 9 PENALTIES, FINES AND REMEDIES

9:00 Penalties, Fines and Remedies

9.1 Penalties and fines.

9.10 Upon the failure or refusal of an owner, occupant, agent or person in possession of the premises (who was the recipient(s) of the "Notice of Violation") to correct the violation as stated in the "Notice of Violation", he and/or she shall be subject to a **\$ 100.00** fine for a first violation. For the second violation and subsequent violation(s) that are committed by a person within two (2) calendar years of a previous violation, he and/or she shall be subject to a **\$200.00** fine.

9.11 The Spencer County Commissioners may authorize the removal of the trash, junk or weeds as listed in the "Notice of Violation". The removal of trash, junk, or weeds can be performed either by the County's own workers and equipment or by a contractor hired by the Commissioners for this purpose.

Compliance with abandoned and/or junk vehicle violations will be handled by the Spencer County Sheriff's Department.

9.12 The Spencer County Auditor's Office shall issue an invoice to the owner(s) of the property for the total costs incurred by the County to bring the property into compliance with this ordinance plus any fines that have not been paid. Payment is due no later than 30 days following the date of the invoice.

9.13 If the fine and the costs incurred by the County are not paid when due, they may be added to the property taxes and/or be a lien against the property.

9.2 Remedies

9.20 The Spencer County Commissioners may bring actions in the Circuit Court of Spencer County for mandatory or injunctive relief for the enforcement of, and to secure compliance with, any order or orders to otherwise provide for the enforcement of this Ordinance.

9.21 Any such action for mandatory or injunctive relief may be joined with an action to recover the penalties, costs and expenses provided in this Ordinance. In the event any legal action is necessary to enforce this Ordinance, the County may seek recovery of costs and expenses reasonably incurred to enforce the provisions of this Ordinance including, but not limited to, reasonable attorney's fees.

Section 10 ENFORCEMENT BY OTHER MEANS.

10.00 Enforcement by Other Means.

10.1 The County may enforce this Ordinance through any other means provided by law, including but not limited to IC 36-1-6, the Enforcement of Ordinances.

Section 11 SPENCER COUNTY PROPERTY MAINTENANCE FUND

11.00 Spencer County Property Maintenance Fund.

11.1 The Spencer County Commissioners shall establish in its operating budget a fund designated as the "Property Maintenance Fund". Any balances remaining at the end of the calendar year shall be carried over in the fund for the following year and does not revert to the general fund.

11.2 All fines, penalties, and clean-up costs paid pursuant to this Ordinance shall be deposited into the Spencer County "Property Maintenance Fund", which shall be administered under the direction of the Spencer County Commissioners.

11.3 The funds deposited into the Spencer County "Property Maintenance Fund" shall be used for the following purposes:

- (a) The removal and clean up of trash, junk, weeds, abandoned and/or junk vehicles that the Commissioners have found to be in violation of the ordinance.
- (b) Court fees, costs and expenses reasonably incurred to enforce this Ordinance.
- (c) Educational materials to inform residents of, and the publicizing of, the Property Maintenance Ordinance.
- (d) Other expenditures as deemed appropriate by the Spencer County Commissioners.

Section 12 SEVERABILITY

12.00 Severability

12.1 Should any section, paragraph, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of said Ordinance shall not be affected thereby and shall remain in full force and effect.

Section 13 REPEAL AND DATE OF EFFECT

13.00 Repeal and Date of Effect

13.1 All ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed, and this Ordinance shall be in full force and effect immediately upon this adoption and its publication as provided by law.

PASSED AND ADOPTED by the Board of Commissioners of Spencer County, State of Indiana, on the 1st day of December, 2008.

THE BOARD OF COMMISSIONERS
SPENCER COUNTY, INDIANA

Dan Rininger
Thomas A. Logsdon
David Gogel
ATTEST:
Cindy Shelton
Auditor of Spencer County

Assessor – Contract for New Construction

Assessor Arnold explained that with the elimination of the township assessors, she needs to either hire a second additional person or contract with a company to handle all new construction. The council agreed that contracting with Reller's Southern Indiana Appraisal was the most cost efficient way to handle new construction. Reller's will complete the new construction assessments for 2008, 2009 and anything which was missed in 2007. Since Reller has the trending contract already, this will be handled as an addendum to that contract. The additional cost for the new construction is \$28,800.

Gogel made a motion to approve the contract. Logsdon seconded. All in favor.

Logsdon asked Arnold how new construction is discovered when a permit is not required. Arnold stated that much of it is missed. She stated that she would like to have an ordinance in place which would require permits on agricultural buildings. It could be a "no fee" permit, but it would then alert the Assessor's office to the construction. Rininger asked Arnold to bring a draft of an ordinance before the board.

Legal Report

Jail Water Heater – Lueken stated that Young Plumbing needs to furnish the county with a certificate of insurance in which it names the county as an additional insured. He also asked if a warranty is provided with the new water heating system. Shelton will contact the jail.

Drug Testing – Discussion was had on the implementation of a more extensive drug and alcohol policy. Lueken stated that all of the players involved with the issue need to meet. Logsdon stated that the policy needs to address all county employees.

Highway Report

CR 305E – Plan Commission Administrator Cail explained that the cul de sac created from CR 300 by new SR 231, which the commissioners named CR 305, is partially inside the town limit of Dale. Cail asked the town council to name their portion of the road CR 305E also, but they named it Reinke Road. Gogel suggested Cail go to the town board and explain the need for a uniform numbering system. Logsdon stated that Attorney Bruce Cissna is the town board attorney and it could be addressed with him and ask him to take the issue to the board. Making sure they understand the implications to the fire and ambulance response times. Gogel will speak to Bruce Cissna.

Bid Opening

Lueken opened the bids submitted for the Highway Supplies. The bids will be awarded on the 16th.
Lueken had questions about the bids submitted for fuel. After a brief discussion, Logsdon made a motion to reject all bids submitted for fuel, re-advertise and open the bids on the 29th.
Mulzer submitted two different bids for packages 2 and 3. One with a fixed price and one with a fuel escalation price. Logsdon directed Painter to examine both options and make a recommendation.

Jail Maintenance Contracts

Discussion was had on the contract renewal for maintenance of the security/intercom/heat/ac controls at the jail. The commissioners decided that all involved need to come together and discuss how it can be best handled.

Courthouse Maintenance

Discussion was had on Courthouse Maintenance Supervisor King. King is to work only 3 hours per day for the remainder of the year. The hours will be addressed again after the first of the year. It was decided to have a joint meeting with the council to discuss the funding of the position.

Logsdon made a motion to adjourn. Gogel seconded. All in favor. The meeting was adjourned at 10:20 am.

Board of Commissioners,

_____ President	_____
Attest:	
_____ Cindy Shelton, Auditor	_____
